

House File 489 - Reprinted

HOUSE FILE 489
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 83)

(As Amended and Passed by the House March 12, 2013)

A BILL FOR

1 An Act relating to various matters under the purview of the
2 insurance division of the department of commerce, providing
3 penalties, and including applicability and effective date
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135.22A, subsection 2, paragraph g, Code
2 2013, is amended by striking the paragraph.

3 Sec. 2. Section 249A.3, Code 2013, is amended by adding the
4 following new subsection:

5 NEW SUBSECTION. 15. An insurance policy or annuity
6 purchased to fund an irrevocable purchase agreement to furnish
7 cemetery merchandise, funeral merchandise, funeral services,
8 or a combination thereof as provided in chapter 523A, which is
9 owned by or assigned to a seller or a provider as defined in
10 section 523A.102, and in which the department is designated as
11 the primary beneficiary as provided in section 523A.304, shall
12 be excluded as a resource for eligibility under this chapter.

13 Sec. 3. Section 502.102, subsection 16, paragraph c, Code
14 2013, is amended to read as follows:

15 c. Is employed by or associated with a federal covered
16 investment adviser, unless the individual has a "place of
17 business" in this state as that term is defined by rule adopted
18 by the ~~securities and exchange commission under section 203A~~
19 ~~of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-3a,~~
20 administrator pursuant to chapter 17A and is any of the
21 following:

22 (1) An "investment adviser representative" as that term is
23 defined by rule adopted under section 203A of the Investment
24 Advisers Act of 1940, 15 U.S.C. § 80b-3a.

25 (2) Not a "supervised person" as that term is defined in
26 ~~section 202(a)(25) of the Investment Advisers Act of 1940, 15~~
27 ~~U.S.C. § 80b-2(a)(25)~~ by rule adopted by the administrator
28 pursuant to chapter 17A.

29 Sec. 4. Section 502.412, subsection 3, Code 2013, is amended
30 to read as follows:

31 3. *Disciplinary penalties — registrants.* If the
32 administrator finds that the order is in the public interest
33 and subsection 4, paragraphs "a" through "f", "h", "i", "j",
34 "l", or "m", authorizes the action, an order under this chapter
35 may censure, impose a bar, or impose a civil penalty in an

1 amount not to exceed a maximum of ~~five~~ ten thousand dollars
2 for a single violation or ~~five hundred thousand~~ one million
3 dollars for more than one violation, or in an amount as agreed
4 to by the parties, on a registrant, and, if the registrant is
5 a broker-dealer or investment adviser, a partner, officer,
6 director, or person having a similar status or performing
7 similar functions, or a person directly or indirectly in
8 control, of the broker-dealer or investment adviser.

9 Sec. 5. Section 502.604, subsection 4, Code 2013, is amended
10 to read as follows:

11 4. *Civil penalty — restitution — corrective action.* In a
12 final order under subsection 3, the administrator may impose a
13 civil penalty up to an amount not to exceed a maximum of ~~five~~
14 ten thousand dollars for a single violation or ~~five hundred~~
15 ~~thousand~~ one million dollars for more than one violation, or
16 in an amount as agreed to by the parties, order restitution,
17 or take other corrective action as the administrator deems
18 necessary and appropriate to accomplish compliance with
19 the laws of the state relating to all securities business
20 transacted in the state.

21 Sec. 6. Section 502.604, Code 2013, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 5A. *Failure to obey cease and desist*
24 *order.* A person who fails to obey a valid cease and desist
25 order issued by the administrator under this section may, after
26 notice and opportunity for a hearing, be subject to a civil
27 penalty in an amount of not less than one thousand dollars and
28 not to exceed ten thousand dollars for violating the order.
29 Each day the failure to obey the cease and desist order occurs
30 or continues constitutes a separate violation of the order.
31 The penalties provided in this subsection are in addition to,
32 and not exclusive of, other remedies that may be available.

33 Sec. 7. Section 505.8, subsection 10, Code 2013, is amended
34 to read as follows:

35 10. The commissioner may, after a hearing conducted

1 pursuant to chapter 17A, assess fines or penalties; assess
2 costs of an examination, investigation, or proceeding;
3 order restitution; or take other corrective action as the
4 commissioner deems necessary and appropriate to accomplish
5 compliance with the laws of the state relating to all insurance
6 business transacted in the state.

7 Sec. 8. NEW SECTION. 506.14 Voluntary dissolution of
8 domestic mutual insurance companies.

9 1. Any plan for voluntary dissolution of a domestic
10 mutual insurance company licensed to transact the business
11 of insurance under chapter 508, 515, 518, or 518A shall be
12 presented for approval by the commissioner not less than ninety
13 days in advance of notice of the plan to policyholders.

14 2. The commissioner shall approve the plan if the
15 commissioner finds that the plan complies with all applicable
16 provisions of law and is fair and equitable to the domestic
17 mutual insurance company and its policyholders.

18 Sec. 9. Section 507.10, subsection 4, paragraph a, Code
19 2013, is amended to read as follows:

20 a. All orders entered pursuant to subsection 3, paragraph
21 "a", shall be accompanied by findings and conclusions resulting
22 from the commissioner's consideration and review of the
23 examination report, relevant examiner work papers, and any
24 written submissions or rebuttals. Any such order is a final
25 administrative decision and may be appealed pursuant to chapter
26 17A, and shall be served upon the company by certified mail,
27 together with a copy of the adopted examination report. ~~Within~~
28 ~~thirty days of the issuance of the adopted report, the company~~
29 ~~shall file affidavits executed by each of its directors stating~~
30 ~~under oath that they have received a copy of the adopted report~~
31 ~~and related orders. The board of directors of the company~~
32 ~~shall timely review the adopted report. The minutes of the~~
33 ~~meeting of the board at which the adopted report is considered~~
34 ~~shall reflect that each member of the board has reviewed the~~
35 ~~adopted report.~~

1 Sec. 10. NEW SECTION. **507C.17A Rehabilitation or**
2 **liquidation of certain covered domestic insurers.**

3 1. The provisions of this section apply in accordance
4 with Tit. II of the federal Dodd-Frank Wall Street Reform and
5 Consumer Protection Act, Pub. L. No. 111-203, 12 U.S.C. § 5301
6 et seq., with respect to a domestic insurer that is a covered
7 financial company, as that term is defined under 12 U.S.C. §
8 5381.

9 2. The commissioner may petition the district court for an
10 order of rehabilitation or liquidation of a domestic insurer
11 pursuant to this section on any of the following grounds:

12 *a.* Upon a determination and notification given by the
13 secretary of the treasury of the United States, in consultation
14 with the president of the United States, that the insurer is
15 a covered financial company satisfying the requirements of
16 12 U.S.C. § 5383(b), and the board of directors, or a body
17 performing similar functions of a board of directors, of the
18 insurer acquiesces or consents to the appointment of a receiver
19 pursuant to 12 U.S.C. § 5382(a)(1)(A)(i) with such consent
20 to be considered as consent to an order of rehabilitation or
21 liquidation.

22 *b.* Upon an order of the United States district court for
23 the District of Columbia under 12 U.S.C. § 5382(a)(1)(A)(iv)(I)
24 granting the petition of the secretary of the treasury of
25 the United States concerning the insurer under 12 U.S.C. §
26 5382(a)(1)(A)(i).

27 *c.* A petition by the secretary of the treasury of the United
28 States concerning the insurer is granted by operation of law
29 under 12 U.S.C. § 5382(a)(1)(A)(v).

30 3. Notwithstanding any other provision of law to the
31 contrary, after notice to the insurer, a district court
32 may grant an order of rehabilitation or liquidation within
33 twenty-four hours after the filing of such a petition pursuant
34 to this section.

35 4. If the district court does not make a determination on a

1 petition for an order of rehabilitation or liquidation filed by
2 the commissioner pursuant to this section within twenty-four
3 hours after the filing of the petition, the order shall be
4 deemed granted by operation of law upon the expiration of the
5 twenty-four-hour period.

6 a. At the time that an order is deemed granted under this
7 subsection, the provisions of this chapter shall be deemed
8 to be in effect, and the commissioner shall be deemed to be
9 affirmed as receiver and to have all of the applicable powers
10 provided by this chapter, regardless of whether an order has
11 been entered by the district court.

12 b. If an order is deemed granted by operation of law under
13 this subsection, the district court shall expeditiously enter
14 an order of rehabilitation or liquidation that does all of the
15 following:

16 (1) Is effective as of the date that the order is deemed
17 granted by operation of law.

18 (2) Conforms to the provisions for rehabilitation or
19 liquidation of an insurer contained in this chapter, as
20 applicable.

21 5. An order of rehabilitation or liquidation made pursuant
22 to this section shall not be subject to a stay or injunction
23 pending appeal.

24 6. Nothing in this section shall be construed to supersede
25 or impair any other power or authority of the commissioner or
26 the district court under this chapter.

27 Sec. 11. Section 511.8, subsection 14, Code 2013, is amended
28 to read as follows:

29 14. *Urban real estate and personal property.*

30 a. Personal or real property or both located within the
31 United States or the Dominion of Canada, other than real
32 property used or to be used primarily for agricultural,
33 horticultural, ranching or mining purposes, which produces
34 income or which by suitable improvement will produce income.
35 However, personal property acquired under this subsection shall

1 be acquired for the purpose of entering into a contract for
2 the sale or for a use under which the contractual payments
3 may reasonably be expected to result in the recovery of the
4 investment and an investment return within the anticipated
5 useful life of the property. Legal title to the real property
6 may be acquired subject to a contract of sale.

7 b. "Real property" as used in this subsection includes a all
8 of the following:

9 (1) A leasehold of real estate,~~an.~~

10 (2) An undivided interest in a leasehold of real estate,~~and~~
11 ~~an.~~

12 (3) An undivided interest in the fee title of real estate.

13 (4) A controlling membership, partnership, shareholder, or
14 trust interest in any entity created solely for the purpose
15 of owning and operating any of the interests described in
16 subparagraph (1), (2), or (3), if the entity is expressly
17 limited to that purpose within its organizational documents.

18 c. Investments under this subsection are not eligible in
19 excess of ten percent of the legal reserve.

20 Sec. 12. Section 511.8, subsection 22, paragraph i,
21 subparagraph (2), Code 2013, is amended to read as follows:

22 (2) Securities pledged as collateral for financial
23 instruments used in highly effective hedging transactions
24 together with securities pledged to a counterparty, clearing
25 organization, or clearinghouse on an upfront basis in
26 the form of initial margin, independent amount, or other
27 securities pledged as a precondition of entering into financial
28 instruments used in highly effective hedging transactions
29 pursuant to subparagraph (1), are not eligible in excess of
30 ten percent of the legal reserve of the life insurance company
31 or association, less any financial instruments used in hedging
32 transactions held in the legal reserve under this subsection.

33 Sec. 13. Section 511.8, subsection 22, paragraph i,
34 subparagraph (3), Code 2013, is amended by striking the
35 subparagraph.

1 Sec. 14. Section 511.8, subsection 23, Code 2013, is amended
2 by adding the following new paragraph:

3 NEW PARAGRAPH. *g.* For securities loaned pursuant to this
4 subsection that are included in the legal reserve of the life
5 insurance company or association, the collateral received for
6 the loaned securities shall not be eligible for inclusion in
7 the legal reserve.

8 Sec. 15. Section 511.40, Code 2013, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 5. *a.* The gross amount of premiums
11 received by a life insurance company or association for an
12 employer-owned life insurance contract which has not been
13 allocated to another state shall be allocated to this state
14 for purposes of section 432.1, subsection 1, if either of the
15 following is applicable:

16 (1) The contract is issued or delivered in this state.

17 (2) The company or association is domiciled in this state.

18 *b.* To the extent that premiums are allocated to this state
19 pursuant to paragraph "a", the provisions of section 505.14 are
20 not applicable to those premiums.

21 *c.* As used in this subsection, "*employer-owned life*
22 *insurance contract*" means a policy which provides coverage on
23 a life for which the employer has an insurable interest under
24 this section or a similar provision of the laws of another
25 state and the policy is owned by either the employer or a trust
26 established by the employer for the benefit of the employer or
27 the employer's active or retired employees.

28 Sec. 16. Section 514.4, Code 2013, is amended to read as
29 follows:

30 **514.4 Directors.**

31 1. At least two-thirds of the directors of a hospital
32 service corporation, medical service corporation, dental
33 service corporation, or pharmaceutical or optometric service
34 corporation subject to this chapter shall be at all times
35 subscribers and not more than one-third of the directors

1 shall be providers as provided in this section. The board of
2 directors of each corporation shall consist of at least nine
3 members.

4 2. A subscriber director is a director of the board of
5 a corporation who is a subscriber and who is not a provider
6 of health care pursuant to section 514B.1, subsection 7, a
7 person who has material financial or fiduciary interest in the
8 delivery of health care services or a related industry, an
9 employee of an institution which provides health care services,
10 or a spouse or a member of the immediate family of such a
11 person. However, a subscriber director of a dental service
12 corporation may be an employee, officer, director, or trustee
13 of a hospital or other entity that does not have a provider
14 contract with the dental service corporation. A subscriber
15 director of a hospital or medical service corporation shall be
16 a subscriber of the services of that corporation.

17 3. A provider director of a corporation subject to this
18 chapter shall be at all times a person who has a material
19 financial interest in or is a fiduciary to or an employee
20 of or is a spouse or member of the immediate family of a
21 provider having a contract with such corporation to render to
22 its subscribers the services of such corporation or who is a
23 hospital trustee.

24 4. A director may serve on a board of only one corporation
25 at a time subject to this chapter.

26 5. The commissioner of insurance shall adopt rules pursuant
27 to chapter 17A to implement the process of the election of
28 subscriber directors of the board of directors of a corporation
29 to ensure the representation of a broad spectrum of subscriber
30 interest on each board and establish criteria for the selection
31 of nominees. The rules shall provide for an independent
32 subscriber nominating committee to serve until the composition
33 of the board of directors meets the percentage requirements
34 of this section. Once the composition requirements of this
35 section are met, the nominations for subscriber directors

1 shall be made by the subscriber directors of the board under
2 procedures the board establishes which shall also permit
3 nomination by a petition of at least fifty subscribers. The
4 board shall also establish procedures to permit nomination of
5 provider directors by petition of at least fifty participating
6 providers. A member of the board of directors of a corporation
7 subject to this chapter shall not serve on the independent
8 subscriber nominating committee. The nominating committee
9 shall consist of subscribers as defined in this section. The
10 rules of the commissioner of insurance shall also permit
11 nomination of subscriber directors by a petition of at least
12 fifty subscribers, and nomination of provider directors
13 by a petition of at least fifty participating providers.
14 These petitions shall be considered only by the independent
15 nominating committee during the duration of the committee.
16 Following the discontinuance of the committee, the petition
17 process shall be continued and the board of directors of the
18 corporation shall consider the petitions. The independent
19 subscriber nominating committee is not subject to chapter 17A.
20 The nominating committee shall not receive per diem or expenses
21 for the performance of their duties.

22 6. Population factors, representation of different
23 geographic regions, and the demography of the service area of
24 the corporation subject to this chapter shall be considered
25 when making nominations for the board of directors of a
26 corporation subject to this chapter.

27 7. A corporation serving states in addition to Iowa shall be
28 required to implement this section only for directors who are
29 residents of Iowa and elected as board members from Iowa.

30 Sec. 17. Section 515.26, Code 2013, is amended to read as
31 follows:

32 **515.26 Directors.**

33 The affairs of a company organized as provided by this
34 chapter shall be managed by a number of directors, of not less
35 than five nor more than twenty-one. ~~In the case of a mutual~~

1 ~~company, all such directors shall be policyholders.~~

2 Sec. 18. Section 515.35, subsection 4, paragraph f, Code
3 2013, is amended to read as follows:

4 *f. Stocks, limited partnership interests, and limited*
5 *liability company interests.*

6 (1) A company may invest in common stocks, common stock
7 equivalents, mutual fund shares, securities convertible into
8 common stocks or common stock equivalents, or preferred stocks
9 issued or guaranteed by a corporation incorporated under the
10 laws of the United States or a state of the United States, or
11 the laws of Canada or a province of Canada.

12 ~~(1)~~ (a) Stocks purchased under this section shall not
13 exceed one hundred percent of capital and surplus. With the
14 approval of the commissioner, a company may invest any amount
15 in common stocks, preferred stocks, or other securities of one
16 or more subsidiaries provided that after such investments the
17 insurer's surplus as regards policyholders will be reasonable
18 in relation to the insurer's outstanding liabilities and
19 adequate to its financial needs.

20 ~~(2)~~ (b) A company shall not invest more than ten percent of
21 its capital and surplus in the stocks of any one corporation.

22 (2) In addition to those investments permitted under
23 subparagraph (1), a company may invest in or otherwise
24 acquire and hold a limited partnership interest in any limited
25 partnership formed under the laws of any state, commonwealth,
26 or territory of the United States, or under the laws of the
27 United States. A company may invest in or otherwise acquire
28 and hold a member interest in any limited liability company
29 formed under the laws of any state, commonwealth, or territory
30 of the United States or under the laws of the United States.
31 A limited partnership or limited liability company interest
32 shall not be acquired if the investment, valued at cost,
33 exceeds two percent of the capital and surplus of the company
34 or if the investment, plus the book value on the date of the
35 investment of all limited partnership or limited liability

1 company interests then held by the company and held under the
2 authority of this subparagraph, exceeds ten percent of the
3 capital and surplus of the company. A limited partnership
4 or limited liability company interest shall not be acquired
5 under this subparagraph unless the limited partnership or
6 limited liability company is audited annually by an independent
7 auditor.

8 Sec. 19. Section 515.48, Code 2013, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 11. Insure risks on an excess and aggregate
11 limit basis.

12 Sec. 20. Section 515.69, subsection 1, Code 2013, is amended
13 to read as follows:

14 1. A stock insurance company organized under or by the
15 laws of any other state or foreign government for the purpose
16 specified in this chapter, shall not, directly or indirectly,
17 take risks or transact business of insurance in this state
18 unless the company ~~has two and one-half million dollars of~~
19 ~~actual paid-up capital, and a surplus in cash or invested in~~
20 ~~securities authorized by law of not less than two and one-half~~
21 ~~million dollars,~~ possesses the actual amount of capital and
22 surplus required of any company organized pursuant to this
23 chapter, or if the company is a mutual insurance company, the
24 actual amount of surplus required of any mutual insurance
25 company organized pursuant to this chapter, exclusive of assets
26 deposited in a state, territory, district, or country for the
27 special benefit or security of those insured in that state,
28 territory, district, or country.

29 Sec. 21. Section 515.128, subsection 1, Code 2013, is
30 amended to read as follows:

31 1. An insurer shall not fail to renew a commercial line
32 policy or contract of insurance except by notice to the
33 named insured as provided in this section. ~~Nonrenewal of a~~
34 ~~commercial line policy or contract includes a decision by the~~
35 ~~insurer not to renew the policy or contract, an increase in~~

~~1 the premium of twenty-five percent or more, an increase in
2 the deductible of twenty-five percent or more, or a material
3 reduction in the limits or coverage of the policy or contract.
4 However, a premium charge which is assessed after the beginning
5 date of the policy period for which the premium is due shall
6 not be deemed a premium increase for the purpose of this
7 section.~~

8 Sec. 22. NEW SECTION. 515.128A **Material changes in**
9 **commercial lines policies or contracts — notice required.**

10 1. If an insurer has an increase in the premium rates of
11 twenty-five percent or more, an increase in the deductible
12 of twenty-five percent or more, or a material reduction in
13 the limits or coverage of the policy or contract, the insurer
14 shall notify the named insured by a letter of explanation of
15 the changes by mail at least forty-five days prior to the
16 expiration date of the policy or contract. However, a premium
17 charge that is assessed after the beginning date of the policy
18 or contract period for which the premium is due shall not be
19 deemed a premium increase for the purposes of this section.

20 2. If the insurer fails to meet the notice requirements of
21 this section, the named insured has the option of continuing
22 the policy or contract for the remainder of the notice
23 period plus an additional thirty days at the premium rate of
24 the existing policy or contract. A post office department
25 certificate of mailing to the named insured at the address
26 shown in the policy or contract is proof of receipt of the
27 mailing.

28 Sec. 23. Section 515.136, Code 2013, is amended to read as
29 follows:

30 **515.136 Value of building — liability.**

31 ~~The insurance company or association issuing such policy may
32 show the actual value of said property at date of policy, and
33 any depreciation in the value thereof before the loss occurred;~~
34 ~~but the said~~ An insurance company or association shall be
35 liable for the actual cash value of the property insured at the

1 date of the loss, unless such value exceeds the amount stated
2 in the policy.

3 Sec. 24. Section 515A.7, subsection 1, paragraph b,
4 subparagraph (5), Code 2013, is amended to read as follows:

5 (5) An insurer may adopt a ~~scheduled~~ or schedule rating plan
6 providing for credits or debits in an amount not exceeding the
7 maximum modification allowed as set forth by the commissioner
8 by rule. This amount shall be in addition to the permitted
9 deviations set forth in subparagraphs (1) through (4).

10 Sec. 25. Section 518.14, subsection 4, paragraph f,
11 unnumbered paragraph 1, Code 2013, is amended to read as
12 follows:

13 Common stocks, common stock equivalents, mutual fund
14 shares, securities convertible into common stocks or common
15 stock equivalents, or preferred stocks issued or guaranteed
16 by a corporation incorporated under the laws of the United
17 States or a state, or the laws of Canada or a province of
18 Canada, or limited partnerships publicly traded on a nationally
19 established stock exchange in the United States. Aggregate
20 investments in nondividend paying stocks shall not exceed five
21 percent of surplus.

22 Sec. 26. Section 518A.12, subsection 4, paragraph f,
23 unnumbered paragraph 1, Code 2013, is amended to read as
24 follows:

25 Common stocks, common stock equivalents, mutual fund
26 shares, securities convertible into common stocks or common
27 stock equivalents, or preferred stocks issued or guaranteed
28 by a corporation incorporated under the laws of the United
29 States or a state, or the laws of Canada or a province of
30 Canada, or limited partnerships publicly traded on a nationally
31 established stock exchange in the United States. Aggregate
32 investments in nondividend paying stocks shall not exceed five
33 percent of surplus.

34 Sec. 27. Section 521E.1, subsection 4, unnumbered paragraph
35 1, Code 2013, is amended to read as follows:

1 `"Domestic insurer"` means an insurance company domiciled in
2 this state and licensed to transact the business of insurance
3 under chapter 508, 512B, 515, or 520, except that it shall not
4 include any of the following:

5 Sec. 28. Section 521E.1, subsection 4, paragraph b, Code
6 2013, is amended by striking the paragraph.

7 Sec. 29. Section 521E.1, subsections 6 and 7, Code 2013, are
8 amended to read as follows:

9 6. `"Foreign insurer"` means an insurance company not
10 domiciled in this state which is licensed to transact the
11 business of insurance in this state under chapter 508, 512B,
12 515, or 520.

13 7. `"Life and health insurer"` means an insurance company
14 licensed under chapter 508, a fraternal benefit society
15 organized under chapter 512B, or a licensed property and
16 casualty insurer writing only accident and health insurance
17 under chapter 515.

18 Sec. 30. Section 521E.3, subsection 1, paragraph a,
19 subparagraph (2), Code 2013, is amended to read as follows:

20 (2) For a life and health insurer, the insurer's
21 total adjusted capital is greater than or equal to its
22 company-action-level risk-based capital but less than the
23 product of its authorized-control-level risk-based capital and
24 ~~two and one-half~~ three, and has a negative trend.

25 Sec. 31. Section 522C.6, Code 2013, is amended by adding the
26 following new subsection:

27 NEW SUBSECTION. 3. a. A licensed public adjuster who,
28 after hearing, is found to have violated this chapter or any
29 rule adopted or order issued pursuant to this chapter, may
30 be ordered to cease and desist from engaging in the conduct
31 resulting in the violation and may be assessed a civil penalty
32 as provided in section 505.7A.

33 b. A person who, after hearing, is found to have violated
34 this chapter by acting as a public adjuster without proper
35 licensure may be ordered to cease and desist from engaging in

1 the conduct resulting in the violation and may be assessed a
2 civil penalty according to the provisions of chapter 507A.

3 *c.* If a person has engaged, is engaging, or is about to
4 engage in any act or practice constituting a violation of
5 this chapter or any rule adopted or order issued pursuant to
6 this chapter, the commissioner may issue a summary order that
7 includes a brief statement of findings of fact, conclusions of
8 law, and policy reasons for the order, and that directs the
9 person to cease and desist from engaging in the act or practice
10 constituting the violation and that may assess a civil penalty
11 or take other affirmative action as in the judgment of the
12 commissioner is necessary to assure that the person complies
13 with the requirements of this chapter as provided in chapter
14 507A.

15 *d.* If a person does not comply with an order issued pursuant
16 to this subsection, the commissioner may petition a court of
17 competent jurisdiction to enforce the order. The court shall
18 not require the commissioner to post a bond in an action or
19 proceeding under this subsection. If the court finds, after
20 notice and opportunity for hearing, that the person is not in
21 compliance with an order, the court may adjudge the person to
22 be in civil contempt of the order. The court may impose a civil
23 penalty against the person for contempt in an amount not less
24 than three thousand dollars but not greater than ten thousand
25 dollars for each violation and may grant any other relief that
26 the court determines is just and proper in the circumstances.

27 Sec. 32. Section 523A.301, Code 2013, is amended to read as
28 follows:

29 **523A.301 Definition.**

30 As used in sections 523A.302 and, 523A.303, and 523A.304,
31 "*director*" means the director of human services.

32 Sec. 33. Section 523A.303, subsection 1, unnumbered
33 paragraph 1, Code 2013, is amended to read as follows:

34 If funds remain in a nonguaranteed irrevocable burial trust
35 ~~fund or from the proceeds of an insurance policy or annuity~~

1 ~~made payable or assigned to the seller or a provider~~ after the
2 payment of funeral and burial expenses in accordance with the
3 conditions and terms of the purchase agreement for cemetery
4 merchandise, funeral merchandise, or funeral services, the
5 seller shall comply with all of the following:

6 Sec. 34. NEW SECTION. 523A.304 Disbursement of insurance or
7 annuity proceeds — medical assistance debts.

8 1. If an insurance policy or annuity is purchased or
9 assigned to fund a purchase agreement and the insured or
10 annuitant is or may become a recipient of medical assistance
11 benefits under chapter 249A, unless the primary beneficiary
12 of the policy or annuity is the spouse or disabled child of
13 the insured or annuitant, the policy owner of the insurance
14 policy or annuity shall designate, or shall amend the insurance
15 policy or annuity to designate, the department as the primary
16 beneficiary of any funds that remain from the proceeds of the
17 insurance policy or annuity after payment of funeral and burial
18 expenses in accordance with the terms and conditions of the
19 purchase agreement.

20 2. If the funds remaining from the proceeds of the insurance
21 policy or annuity are disbursed as provided in subsection 1
22 and as otherwise provided in the insurance policy or annuity,
23 if applicable, the seller, provider, or insurer shall not be
24 liable to the director, the estate of the deceased insured or
25 annuitant, a personal representative, or any other interested
26 person for the remaining funds, and any lien imposed by the
27 director shall be unenforceable against the seller, provider,
28 or insurer.

29 3. This section applies to an insurance policy or annuity
30 issued prior to January 1, 2014, that funds a purchase
31 agreement for an insured or annuitant who receives or may
32 receive medical assistance benefits under chapter 249A, and who
33 dies on or after January 1, 2014.

34 4. This section applies to an insurance policy or annuity
35 issued on or after January 1, 2014, to fund a purchase

1 agreement for an insured or annuitant who receives or may
2 receive medical assistance benefits under chapter 249A, and who
3 dies on or after January 1, 2014, and on or after the date of
4 issuance of the insurance policy or annuity.

5 Sec. 35. Section 598.20A, Code 2013, is amended to read as
6 follows:

7 **598.20A Beneficiary revocation — life insurance.**

8 1. Except as preempted by federal law, if a decree of
9 dissolution, annulment, or separate maintenance is issued after
10 ~~an insured~~ the policy owner of an insurance contract insuring
11 the policy owner's own life has designated the ~~insured's~~ policy
12 owner's spouse or one or more relatives of the ~~insured's~~ policy
13 owner's spouse as a beneficiary under a life insurance policy
14 in effect on the date of the decree, a provision in the life
15 insurance policy making such a designation is voided by the
16 issuance of the decree unless any of the following apply:

17 a. The decree designates the ~~insured's~~ policy owner's former
18 spouse or one or more relatives of the ~~insured's~~ policy owner's
19 spouse as beneficiary.

20 b. After issuance of the decree, the ~~insured~~ policy owner
21 executes a designation of beneficiary form provided by the
22 insurance company naming the ~~insured's~~ policy owner's former
23 spouse or one or more relatives of the ~~insured's~~ policy owner's
24 former spouse as beneficiary.

25 c. The ~~insured~~ policy owner and the ~~insured's~~ policy owner's
26 former spouse remarry.

27 2. If a beneficiary designation is not effective pursuant to
28 subsection 1, the benefits or proceeds of the life insurance
29 policy are payable to an alternate beneficiary, or if there is
30 no alternate beneficiary, to the estate of the ~~insured~~ policy
31 owner.

32 3. An insurer who pays benefits or proceeds of a life
33 insurance policy to a beneficiary under a designation that is
34 void pursuant to subsection 1 is not liable for payment to an
35 alternative beneficiary as provided under subsection 2 unless

1 both of the following apply:

2 a. At least ten days prior to payment of the benefits
3 or proceeds of the life insurance policy to the designated
4 beneficiary, the insurer receives written notice at the home
5 office of the insurer that the designation of the beneficiary
6 is not effective pursuant to subsection 1.

7 b. The insurer has failed to interplead the benefits or
8 proceeds of the life insurance policy in a court of competent
9 jurisdiction in accordance with the rules of civil procedure.

10 4. This section does not limit the right of a beneficiary
11 to seek recovery from any person or entity that erroneously
12 receives or collects the benefits or proceeds from a life
13 insurance policy.

14 5. This section does not affect the right of an ~~insured's~~ a
15 policy owner's former spouse to assert an ownership interest in
16 a life insurance policy insuring the life of the policy owner
17 that is not disclosed to the ~~insured's~~ policy owner's spouse
18 prior to the decree of dissolution, annulment, or separate
19 maintenance and that is not addressed by the decree.

20 6. For purposes of this section, "*relative of the insured's*
21 policy owner's spouse" means a person who is related to the
22 ~~insured's~~ policy owner's former spouse by blood, adoption,
23 or affinity, and who, subsequent to a decree of dissolution,
24 annulment, or separate maintenance, ceases to be related to the
25 ~~insured~~ policy owner by blood, adoption, or affinity.

26 Sec. 36. EFFECTIVE UPON ENACTMENT. The following
27 provision or provisions of this Act, being deemed of immediate
28 importance, take effect upon enactment:

29 1. The section of this Act enacting section 507C.17A.

30 Sec. 37. EFFECTIVE DATE. The following provision or
31 provisions of this Act take effect January 1, 2014:

32 1. The section of this Act amending section 523A.303,
33 subsection 1, unnumbered paragraph 1.